

**To:** VanOrden, James[VanOrden.James@epa.gov]; Thurmon, Clarke[Thurmon.Clarke@epa.gov]; Kenney, James[Kenney.James@epa.gov]; Kemery, Dale[Kemery.Dale@epa.gov]  
**Cc:** Conger, Nick[Conger.Nick@epa.gov]; Crane, Rebecca[crane.rebecca@epa.gov]; Seneca, Roy[Seneca.Roy@epa.gov]  
**From:** Gentile, Laura  
**Sent:** Mon 8/26/2013 9:29:29 PM  
**Subject:** FINAL RESPONSE -- PRESS INQUIRY -- XTO Energy spill & consent decree

Great -- thanks a lot, James

Adding Roy Seneca to this email

Dale, here's our response:

**QUESTION 1** - Case documents say a spill of between 6,300 gallons and 57,373 gallons of flowback and produced water occurred on Nov. 16, 2010. Can you share with me how that range of leakage was derived, and how you then determined the leak had been going on for 65 days?

XTO provided the numbers mentioned above as estimates based on company records of the potential volume of waste that could have been in the tanks at the time of the release. The low estimate of 6,300 gallons assumed that the estimated contents of only one tank was released. The high estimate of 57,373 assumed that the estimated contents of all six interconnected tanks was released.

XTO's sampling results indicated that the spill had contaminated a nearby surface water (Tributary 19617) and an adjacent spring for up to 65 days. Specifically, the results showed elevated levels of pollutants in the surface water that matched those also present in the tank that had released the wastewater. The levels of these pollutants, which included total dissolved solids, strontium, barium, bromides and chloride, were significantly higher than upstream baseline levels over the course of 65 days.

**QUESTION 2** - If I understand the consent decree correctly, XTO was given 60 days to submit to EPA its plans for remediation and correction. How do we know the leakage has stopped, and ground and water pollution cleaned up? Will EPA depend on XTO-generated reports for those determinations, or have you the staff to oversee in person?

The CD requires that XTO submit a plan for remediation and correction in the event of any future spills. The spill incident that was the subject of the Consent Decree was contained as of Dec. 2010 (pursuant to a PADEP order) by excavating contaminated soils.

QUESTION 3 - How much responsibility, if any, has been delegated to or remains with Pennsylvania DEP?

PADEP is authorized to implement the NPDES Program and EPA retains its authority for oversight. In addition, PADEP (along with EPA) has separate cleanup authority, which it used in this case to require that XTO conduct a cleanup.

QUESTION 4 - How was the amount of the civil fine (\$100,000) fine determined? The civil fine was determined in accordance with the 1995 Interim Clean Water Act Settlement Policy, which requires that EPA take into consideration the gravity, nature and extent of the violation, and other relevant considerations. That policy is available on EPA's website at: at

<http://www.epa.gov/compliance/resources/policies/civil/cwa/cwapol.pdf>

Laura L. Gentile

Senior Communications Advisor

U.S. EPA Office of Enforcement and Compliance Assurance

Ariel Rios South

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202.564.3158